

TOWN OF SUPERIOR
RESOLUTION NO. R-13
SERIES 2019

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
SUPERIOR APPROVING A MASTER LICENSE AGREEMENT WITH
VERIZON WIRELESS (VAW) LLC

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF
SUPERIOR, COLORADO, as follows:

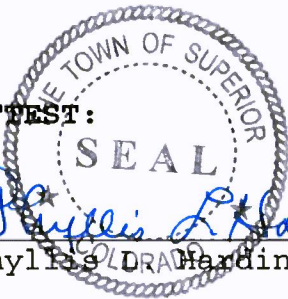
Section 1. The Master License Agreement between the
Town of Superior and Verizon Wireless (VAW) LLC, d/b/a Verizon
Wireless, is hereby approved in substantially the same form as
attached hereto, subject to final approval by the Town Attorney.

ADOPTED this 25th day of February, 2019.



Clint Folsom, Mayor

ATTEST:


Phyllis D. Hardin, Town Clerk-Treasurer

MASTER LICENSE AGREEMENT

This MASTER LICENSE AGREEMENT (the "Agreement") is made and entered into as of February 25, 2019 (the "Effective Date"), by and between the Town of Superior, a Colorado municipal corporation with an address of 124 East Coal Creek Drive, Superior, Colorado 80027 (the "Town"), and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless, a Delaware limited liability company with an address of 180 Washington Valley Road, Bedminster, New Jersey 07921, Attn: Network Real Estate ("Licensee") (each a "Party" and collectively the "Parties").

WHEREAS, the Town controls certain public rights-of-way within the Town limits;

WHEREAS, Licensee owns or controls, maintains, and operates a wireless and fiber communications network serving Verizon Wireless customers; and

WHEREAS, for purposes of operating its network, Licensee wishes to locate, place, attach, install, operate, control, and maintain antennas and other related wireless communication equipment in the public rights-of-way in the Town.

NOW THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

a. *Affiliate* means: (i) an entity in which Licensee holds a controlling interest; (ii) an entity which holds a controlling interest in Licensee; (iii) an entity under common control with Licensee; or (iv) an entity that is a successor by merger or other consolidation of Licensee.

b. *Commencement Date* means the date a Site Supplement becomes effective.

c. *Equipment* means antennas and other wireless communications equipment utilizing technology that is specifically described in Exhibit A-1 to each Site Supplement, including without limitation equipment shelters and cabinets, nodes, antennas, fiber optic cable, coaxial cable, wires, frequencies, technology, conduits and pipes, poles, towers and associated and appurtenant equipment necessary to operate the WCF.

d. *FCC* means the Federal Communications Commission.

e. *Interference* means physical interference and radio frequency interference.

f. *Laws* means any and all applicable federal, state, and local laws, statutes, constitutions, code, ordinances, resolutions, regulations, judicial decisions, rules, permits, approvals or other applicable requirements of the Town or other governmental entity, agency or judicial authority, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to: the emission, discharge, release or threatened release of a hazardous material into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a hazardous material; and the protection of human

health, safety or the indoor or outdoor environmental, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*; the Clean Air Act; the Federal Water Pollution Control Act; the Occupational Safety and Health Act; all applicable environmental statutes of the State of Colorado; and all other federal, state or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

g. *Network* or *Networks* means one or more of the Wireless Communications Facilities operated by Licensee.

h. *Physical Interference* means where equipment, vegetation, or a structure causes reduced use of another's prior mounted equipment, or an obstruction in a necessary line-of-sight path.

i. *Radio Frequency Interference* means the emission or conduction of radio frequency energy (or electronic noise) produced by electrical and electronic devices at levels that interfere with the operation of adjacent or nearby equipment.

j. *ROW* has the same meaning as "Public right-of-way" in § 11-2-10 of the Superior Municipal Code.

k. *Site Supplement* means the form of site supplement set forth in **Exhibit A**, attached hereto and incorporated herein by this reference.

l. *Town Facilities* means poles and fixtures located within the ROW and owned by the Town, including without limitation streetlight poles and traffic poles, that are designated by the Town as being suitable for placement of Equipment.

m. *Wireless Communications Facility* or WCF has the same meaning as in § 16-31-12 of the Superior Municipal Code.

n. *Wireless Site* means a location within the ROW selected and approved for Licensee's deployment of its Equipment.

2. **Grant of License.** The Town hereby grants to Licensee a non-exclusive license to use and occupy the ROW in the Town to attach, install, operate, maintain, upgrade, remove, reattach, reinstall, relocate and replace Equipment at each approved Wireless Site in accordance with this Agreement (the "License"). Because Licensee's right to use and occupy the ROW and attach to structures therein is not exclusive, the Town reserves the right to grant a similar use to itself or any other person or entity at any time. The Parties understand and agree that this Agreement is a limited grant of authority subject in all respects to the Laws; provided that, unless required by federal or state law or as necessary to protect the public health, safety and welfare of citizens, Licensee shall not be required to modify an existing WCF to comply with future changes to the Superior Municipal Code. Licensee acknowledges that the Town permits others to install

facilities and improvements in the ROW, and in permitting such work to be done by others, the Town shall not be liable to Licensee for any damage caused to the Wireless Site by other users of the ROW.

3. Term, Termination and Abandonment.

a. *Term.* The term of this Agreement shall be 20 years, commencing on the Effective Date (the "Term").

b. *Termination.* Licensee may terminate this Agreement at any time upon 30 days' prior written notice to the Town. Upon such termination, any prepaid Attachment Fee shall be retained by the Town.

c. *Abandonment.* If Licensee abandons the use of a Town Facility for a period of 180 consecutive days, the Equipment shall be removed at Licensee's expense. If Licensee fails to remove such Equipment, the Town may authorize removal and Licensee shall be responsible for all costs incurred for such removal.

d. *Surrender.* Within 90 days of the expiration of the term of any Site Supplement or the earlier termination thereof, Licensee shall, at its own expense, remove all Equipment, repair any damage to the Town Facility or ROW caused by such removal, and restore the Town Facility or ROW to their condition prior to the installation of the Equipment, reasonable wear and tear excepted.

4. Selection of Wireless Sites.

a. *General.* Wireless Sites shall be selected based upon Licensee's technical and radio frequency needs and construction costs, but in any situation where Licensee has a choice of Equipment locations, the Parties shall exercise good faith efforts to agree on locations based on the following priority, provided that, in the case of poles, such poles are at least as suitable functionally for the operation of the Network and the construction and installation burdens associated with such attachment over the term of this Agreement are less than or equal to Licensee's burdens to attach to a pole in a lower priority.

b. *Priority.* Subject to the foregoing, Wireless Sites shall be located in the following order of priority:

- i. Existing light poles owned and operated by the Town, a public utility company or a third party and located in the ROW on a corner of a street intersection;
- ii. Existing light poles owned and operated by the Town, a public utility company, or a third party and located in the ROW in areas other than a corner of a street intersection; then
- iii. Town Facilities other than light poles, including traffic poles; then
- iv. Light poles installed by Licensee at its own expense in the ROW; and then

- v. Other poles installed by Licensee at its own expense in the ROW.

5. Installations.

a. *Inventory.* At all times during the term of this Agreement, Licensee shall maintain a current inventory of Wireless Sites governed by this Agreement, and within 30 days of request, Licensee shall provide to the Town a copy of such inventory. The inventory shall include GIS coordinates, License Site ID #, type of pole, pole owner, and designation/type of installation for each Wireless Site.

b. *Site Supplement.* Installation of any Equipment on a Town Facility shall require a Site Supplement in the form attached hereto as **Exhibit A**. Licensee shall submit an application for a Site Supplement, which shall include the following information, at a minimum:

- i. Plans prepared by a Colorado-licensed engineer showing engineering design, and specifications for installation of the Equipment, including the location of radios, antenna facilities, transmitters, equipment shelters, cables, conduit, point of demarcation, backhaul solution, electrical distribution panel, electric meter, electrical conduit and cabling, location of any potholes and all other associated equipment, and specifications on design and pole modification;

- ii. Plans showing existing sidewalks, utilities, trees and other existing improvements;

- iii. Separate sheets showing existing traffic control signals and signs;

- iv. As applicable, documentation to verify that the pole is eligible for attachment, along with a load bearing study that determines whether the pole requires reinforcement or replacement to accommodate attachment of the Equipment, and if pole reinforcement or replacement is warranted, the design and specifications of the proposed modifications;

- v. For new pole installations, documentation verifying the pole location is in the ROW and is eligible for installation. If the proposed installation includes a new pole, provide design and specification drawings for the new pole;

- vi. A description of the utility services required to support the Equipment;

- vii. If the Town determines it necessary at the particular Wireless Site, a legal description of the Wireless Site, signed and sealed by a surveyor registered in the State of Colorado; and

- viii. For Town-owned traffic signal poles, documentation showing compliance with **Exhibit C**, attached hereto and incorporated herein by this reference.

c. *Additional Installations.* Licensee is hereby authorized to access the ROW to install, maintain and modify its Equipment on existing poles or replacement poles in the ROW lawfully owned and controlled by third parties, subject to the permit required by Chapter 11, Article 2 of the Superior Municipal Code and any other applicable Laws. In such situations, a

Site Supplement shall not be required nor shall an Attachment Fee be paid; however, Licensee shall furnish to the Town documentation of the permission from the individual owner.

d. *Replacement Poles.* When Licensee and the Town have agreed on an existing location as a suitable site for Equipment, but the existing Town-owned pole or street light needs to be replaced to accommodate the Equipment, then Licensee shall pay all costs of replacement, including without limitation installation of the replacement pole or street light (the "Replacement Pole"), transfer of the streetlight fixtures, traffic signal, and other items attached to the existing pole to the Replacement Pole, and removal and salvage of the existing pole or street light. Payment of such costs does not provide Licensee with any ownership interest in the Replacement Pole, and the Town will be deemed to own the original pole and the Replacement Pole.

e. *Unauthorized Installations.* If the Town identifies any unauthorized Wireless Sites, the Town shall provide written notice to Licensee. Licensee shall then have 30 days in which to submit a request for a Site Supplement for that location or, alternatively, to remove the Equipment and restore the property at Licensee's expense. If Licensee fails to submit a request for a Site Supplement, or if the request is denied, Licensee shall remove the Equipment from the ROW and restore the property at its expense within 30 days of notice from the Town. If the request is approved, Licensee shall pay the required Attachment Fee plus interest at the rate of 2% per annum from the date of the original installation.

f. *Modifications.*

i. Minor. Modifications to the Equipment with like-kind or similar Equipment may be made without additional Town approval (other than any permits required by the Superior Municipal Code) if: such modification to the attachment involves only substitution of internal components, and does not result in any change to the external appearance, dimensions, or weight of the attachment, or loading impacts on the pole as approved by the Town or impact multi-modal traffic flow; or such modification involves replacement of the attachment with an attachment that is the same, or smaller in weight and dimensions and does not impact multi-modal traffic flow.

ii. Substantial. If Licensee proposes to install Equipment which is different from the existing Equipment in any substantial way, then Licensee shall first obtain the Town's written approval for the use and installation of the new Equipment, pursuant to the Superior Municipal Code.

g. *"As Is" Condition.* Licensee accepts the ROW and every Town Facility in its "as is" condition.

h. *Title to Equipment.* Title to and control of the Equipment, exclusive of the Town Facility, but including ground mounted equipment, shall remain with Licensee and shall constitute Licensee's personal property and Equipment, and not fixtures or improvements attached to the land. This Agreement shall not create or vest in Licensee any ownership or property rights in any Town Facility or the ROW. Additionally, Licensee acknowledges that this Agreement does not constitute or create a leasehold interest.

6. Attachment Fee.

a. *Calculation.* Licensee shall pay to the Town an annual fee equal to \$200 for the Site Supplement (the "Attachment Fee"). Beginning on the first anniversary of the Commencement Date and continuing throughout the term of the Site Supplement, including any extensions, the Attachment Fee shall increase by 1% per annum over the annual rental rate due during the immediate preceding year; provided that, if any Laws provide Licensee with the right to use Town Facilities at an annual rate less than the rate set forth herein, the annual Attachment Fee shall be reduced according to such Laws.

b. *Payment.* The Attachment Fee is non-refundable and is payable within 60 days of the Commencement Date and on or before each subsequent annual anniversary of the Commencement Date during the term of the Site Supplement.

7. Licensee's Obligations.

a. *Approval Process.* Licensee shall comply with the application and approval process for each WCF as set forth in the Superior Municipal Code.

b. *Taxes.* Licensee shall pay all applicable taxes levied, assessed, or imposed on Licensee or on the Equipment by reason of this Agreement.

c. *Electric Meter.* Licensee shall be responsible for paying all charges for any electricity furnished by a utility to Licensee and for charges for furnishing service to the Equipment. When the Equipment requires an electric meter, as determined by the utility provider, Licensee shall cause to be installed a separate electric meter on a ground mounted pedestal or on Licensee's pad-mounted equipment cabinet. Licensee shall request of the utility provider that it in good faith attempt to install power facilities which are inconspicuous as reasonably possible and yet consistent with electric code installation requirements.

d. *Permits.* Licensee shall apply for, obtain and pay the applicable fees for a permit for work performed within the ROW. Execution of this Agreement or any Site Supplement does not constitute the issuance of a Permit.

e. *Design and Installation.* The basic design of the Equipment shall comply with the Design and Operational Standards set forth in **Exhibit B**, attached hereto and incorporated herein by this reference. All of the construction and installation work for Equipment shall be performed at Licensee's sole cost and expense and in a good and workmanlike manner and promptly completed.

f. *Damage to Property.* If Licensee damages or disturbs the surface or subsurface of any Town Property, ROW or adjoining property, Licensee shall promptly, at its own expense, and in a manner reasonably acceptable to the Town, repair the damage or disturbance in accordance with the Superior Municipal Code.

g. *Compliance with Laws.* At all times during the Term, Licensee and its Equipment shall comply with all Laws.

h. *Maintenance and Repair.* Licensee shall keep the Equipment in good repair and properly maintained.

i. *Public Emergency.* In the event of an emergency or to protect the public health or safety, if the Town's employees or agents must be closer to any Equipment than the FCC's recommended minimum distance, Licensee shall deactivate such Equipment immediately. In such case, the Town will contact Licensee's NOC #800 264-6620 (the "NOC#") to request deactivation.

j. *Emergency Contact.* Licensee shall have a designated contact person available 24/7 in the event of an emergency. Licensee's initial contact shall be the NOC#. Licensee shall maintain the emergency contact information current at all times with the Town Manager or designee. In an emergency, if after two attempts to contact Licensee's emergency contact, Licensee does not respond, the Town shall have the right to undertake any actions that the Town deems reasonably necessary to avoid property damage or personal injury, and all costs for such undertaking shall be paid by Licensee.

8. Interference.

a. *Radio Frequency Interference.* Licensee shall ensure that the Equipment will not cause radio frequency interference with traffic, public safety or other communications signal equipment, consistent with the applicable FCC rules in place at such time.

b. *Existing Uses.* Licensee shall not physically interfere in any manner with the existing uses of the Town Facilities or ROW without the express written approval of the Town or other users (if applicable).

c. *Remedies.* Without limiting any other rights or remedies, if interference occurs and continues for a period in excess of 24 hours following notice to Licensee, Licensee shall reduce power or cease operations of the interfering equipment until the interference is cured. Notice by the Town to Licensee hereunder shall be provided to the NOC#.

9. Removal and Relocation.

a. *At Town's Request.* Licensee shall, upon 90 days prior written notice from the Town to Licensee, relocate a WCF in the ROW at Licensee's sole cost and expense whenever the Town reasonably determines that the relocation is needed for any public purpose, including without limitation: (i) if required for the construction, modification, completion, repair, relocation, or maintenance of a Town or other public agency project; (ii) because the WCF is interfering with or adversely affecting proper operation of Town Facilities; or (iii) because the Town is abandoning or removing the Town Facility. In addition, the Town may require Licensee to relocate, remove, modify or disconnect a WCF located in the ROW in the event of an emergency, when the public health or welfare requires such change. In any such case, the Town shall use reasonable efforts to afford Licensee a reasonably equivalent alternate location. If Licensee fails to timely relocate or remove any WCF as set forth in this Section, the Town shall be entitled to remove or relocate the WCF at Licensee's sole cost and expense, without further notice to Licensee. Licensee shall pay to the Town the actual costs and expenses incurred by the

Town in performing any removal work and any storage of Licensee's property within 45 days of the date of a written demand for this payment from the Town.

b. *At Licensee's Request.* If Licensee desires to relocate any Equipment from one Town Facility to another, Licensee shall so advise the Town. The Town will use reasonable efforts to accommodate Licensee by making another reasonably equivalent Town Facility available for use in accordance with and subject to the terms and conditions of this Agreement.

10. Indemnification and Waiver.

a. *Indemnification.* Licensee agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Licensee, any subcontractor of Licensee, or any officer, employee, representative, or agent of Licensee, or which arise out of a worker's compensation claim of any employee of Licensee or of any employee of any subcontractor of Licensee. Notwithstanding the foregoing, Licensee shall not indemnify or hold harmless the Town or its officers, insurers, volunteers, representative, agents, employees, heirs or assigns on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, property loss or damage, or any other loss of any kind whatsoever, which arise out of the negligence or willful misconduct of the Town or its officers, insurers, volunteers, representative, agents, employees, heirs or assigns.

b. *Waiver.* In consideration for the rights granted under this Agreement, Licensee waives all claims, demands, causes of action, and rights it may assert against the Town and its officials, personnel, agents, and representatives because of any loss, damage, or injury to any WCF, or any loss or degradation of service resulting from the installation, operation, maintenance or malfunction of WCF regardless of cause, except with respect to claims, demands, causes of action and rights Licensee caused by the negligence or willful misconduct the Town or its officials, personnel, agents or representatives.

11. Insurance.

a. *Coverages.* Licensee shall procure and maintain, and shall cause each of its contractors and subcontractors to procure and maintain, the insurance coverages listed below.

i. Worker's Compensation insurance as required by law.

ii. Commercial General Liability insurance with combined single limits of \$2,000,000 per occurrence for bodily injury and property damage and \$5,000,000 general aggregate including premises and operations, personal and advertising injury, blanket contractual liability, and products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers and employees as additional insureds as their interests may appear under this Agreement.

No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

iii. *Excess or Umbrella Liability insurance*, on an occurrence basis, in excess of the Commercial General Liability insurance, which has coverage as broad as such policy, with a limit of \$2,000,000.

b. *Form*. Such insurance shall be in addition to any other insurance requirements imposed by law. Upon receipt of notice from its insurer(s), Licensee shall provide the Town with 30 days' prior written notice of cancellation of any required coverage, and shall procure replacement coverage so that the insurance does not lapse. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees or its contractors shall be excess and not contributory insurance to that provided by Licensee. Licensee shall be solely responsible for any deductible losses under any policy.

c. *Certificate*. Licensee shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

d. *Increase*. The Town, upon prior notice to, review and acceptance by Licensee, may reasonably increase the insurance required hereunder if the Town's statutory governmental immunity limits increase above \$5,000,000.

12. Assignment and Transfer.

a. *Consent Required*. Licensee shall not assign or otherwise transfer all or any part of Licensee's interest, rights, and duties in this Agreement or any Site Supplement, or sublet any Wireless Site or portion thereof, without the Town's prior written consent, which shall not be unreasonably withheld. Any assignment or transfer that is not in compliance with this Section shall be void.

b. *Permitted Assignments*. Notwithstanding the foregoing, Licensee may, without the consent of the Town, assign or transfer this Agreement or any Site Supplement to an Affiliate or any entity that acquires all or substantially all of Licensee's assets in the market defined by the FCC in which the Town is located, provided that such entity agrees to be bound by all of the terms and conditions of this Agreement. Licensee shall provide the Town with notice of any such assignment within 30 days.

c. *Consideration*. In considering an assignment, the Town may consider the following in relation to the proposed assignee:

i. Whether it has ever been convicted or held liable for acts involving deceit including any violation of any Laws, or is currently under an indictment, investigation or complaint charging such acts;

ii. Whether a judgment has been entered against it by any court of competent jurisdiction in an action for fraud, deceit, or misrepresentation;

iii. Whether there is pending any material legal claim, law suit, or administrative proceeding arising out of or involving a network or equipment similar to that contemplated by this Agreement, except claims, suits or proceedings relating to insurance claims, theft of service, or employment matters;

iv. Whether it is financially solvent, based on financial statements that are audited or reviewed by a certified public accountant who may also be an officer of the parent corporation; and

v. Whether it has the financial and technical capability to maintain and operate the Network, Wireless Sites, Equipment and WCFs for the remainder of the Term.

d. *Change of Control; Security Interests; Capacity.* The following shall not constitute a transfer or assignment pursuant to this Section, and shall not require consent: (i) a change of stock ownership, partnership interest or control of Licensee or transfer upon partnership or corporate dissolution of Licensee; (ii) a mortgage or grant of security interest to any mortgagees or holders of security interest, including their successors or assigns, provided such holders of interests are subject to all of the terms of this Agreement; or (iii) the provision of capacity, bandwidth or grant of use in the Equipment, or any portion thereof, to another person; provided that Licensee shall at all times retain control over all of the Equipment and remain fully responsible for compliance with the terms of this Agreement. The Town hereby acknowledges the ability to lease capacity under legal compulsion under applicable Laws.

13. Default.

a. *By Licensee.* The Town shall provide Licensee with a detailed written notice of any violation of this Agreement, and a 30-day period within which Licensee may: demonstrate that a violation does not exist; cure the alleged violation; or if the nature of the alleged violation prevents correction thereof within 30 days, to initiate a reasonable corrective action plan to correct such violation, subject to the Town's written approval, which will not be unreasonably withheld. If Licensee fails to disprove or correct the violation within 30 days or the timeframe set forth in the approved action plan, then the Town may declare in writing that Licensee is in default.

b. *By the Town.* Licensee shall provide the Town with a detailed written notice of any violation of this Agreement, and a 30 day period within which the Town may: demonstrate that a violation does not exist; cure the alleged violation; or if the nature of the alleged violation prevents correction thereof within 30 days, to initiate a reasonable corrective action plan to correct such violation, subject to Licensee's written approval, which will not be unreasonably withheld. If the Town fails to disprove or correct the violation within 30 days the timeframe set forth in the corrective action plan, then Licensee may declare in writing that the Town is in default.

c. *Termination.* In the event of a default, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate this Agreement. The non-defaulting Party shall have all remedies available at law and in equity, provided that specific performance shall

never be an available remedy against the Town. Notwithstanding the foregoing, if Licensee has only one default in any 12-month period, and that default is related to one or more Site Supplements and not any material provision of this Agreement, the Town may terminate the related Site Supplement(s), but will not terminate this Agreement.

d. *Bankruptcy.* The Parties expressly agree and acknowledge that it is their intent that in the event Licensee becomes a debtor in any voluntary or involuntary bankruptcy proceeding under the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.* (the "Bankruptcy Code"), for the purposes of proceeding under the Bankruptcy Code, this Agreement shall be treated as an unexpired lease of nonresidential real property under 11 U.S.C. § 365, as amended, and, accordingly, shall be subject to the provisions of 11 U.S.C. § 365(d)(3) and (d)(4). Any person or entity to which Licensee's rights, duties and obligations under this Agreement are assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act to have assumed all of the obligations of Licensee under this Agreement both before and after the date of such assignment. Any such assignee shall upon demand execute and deliver to the Town an instrument confirming such assumption. Any monies or other considerations payable or otherwise to be delivered in connection with such assignment shall be paid to the Town, shall be the exclusive property of the Town, and shall not constitute property of Licensee or of the estate of Licensee within the meaning of the Bankruptcy Code. Any monies or other considerations constituting the Town's property under the preceding sentence not paid or delivered to the Town shall be held in trust for the benefit of the Town and be promptly paid to the Town.

14. Miscellaneous.

a. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado or the applicable federal district court.

b. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

c. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

d. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

e. *Notice.* Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

f. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

g. *Modification.* This Agreement may only be modified upon written agreement of the Parties.

h. *Governmental Immunity.* The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

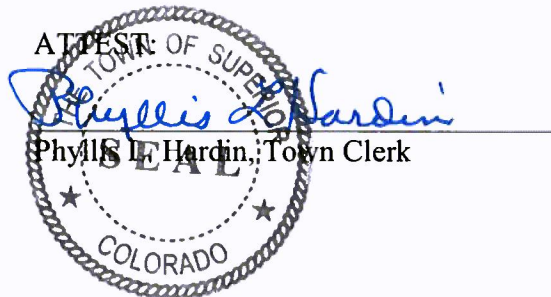
i. *Rights and Remedies.* The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

j. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF SUPERIOR, COLORADO

Clint Folsom
Clint Folsom, Mayor



LICENSEE

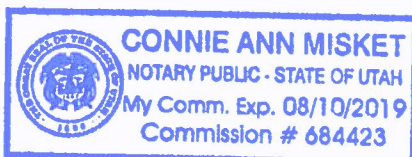
Verizon Wireless (VAW) LLC d/b/a
VERIZON WIRELESS

By: Steve LeVar
Name: **Steve LeVar**
Its: **Director Network Field Engineering**

STATE OF Utah)
) ss.
COUNTY OF Salt Lake)

The foregoing instrument was subscribed, sworn to and acknowledged before me this 26 day of March, 2019, by Steve LeVar Director of Verizon Wireless (VAW) LLC d/b/a/ Verizon Wireless. Network Field Engineering

My commission expires: 8/10/19



[Signature]

(S E A L)

Notary Public

EXHIBIT A
Form of Site Supplement

This Site Supplement (the "Site Supplement") is made this ____ day of _____, 20____ (the "Commencement Date") by and between the Town of Superior, a Colorado municipal corporation with an address of 124 East Coal Creek Drive, Superior, Colorado 80027 (the "Town"), and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless, a Delaware limited liability company, with an address of 180 Washington Valley Road, Bedminster, New Jersey 07921 ("Licensee") (each a "Party" and collectively the "Parties").

1. Site Supplement. This is a Site Supplement as referenced in the Master License Agreement between the Town and Licensee dated _____, 2019 (the "Agreement"). All of the terms and conditions of the Agreement are incorporated herein by reference. In the event of any inconsistency between the terms of the Agreement and this Site Supplement, the terms of the Agreement shall govern. Capitalized terms used in this Site Supplement shall have the same meaning as in the Agreement.
2. Project Description and Location. Licensee shall have the right to use the Town Facility or ROW in the designated areas described in **Exhibit A-1**, attached hereto and incorporated herein by this reference (the "Licensed Area").
3. Equipment. The Equipment to be installed in the Licensed Area is described in Exhibit A-1.
4. Term. The term of this Site Supplement shall commence on the Commencement Date and continue until termination of the Agreement, unless terminated earlier under the Agreement or this Site Supplement.
5. Approvals. Licensee's ability to use the Licensed Area is contingent upon its obtaining all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Laws, as well as a satisfactory fiber and electrical connection which will permit Licensee to use the Licensed Area. In the event that: (i) any application for such Governmental Approvals is denied; (ii) any Governmental Approval issued to Licensee is canceled, expired, lapsed, or is otherwise withdrawn or terminated; (iii) Licensee determines that such Governmental Approvals may not be obtained in a timely manner; (iv) Licensee determines that it will be unable to obtain or maintain, in a satisfactory manner, any fiber or power connection; or (v) Licensee determines that the Licensed Area is no longer technically compatible for its use, Licensee shall have the right to terminate this Site Supplement.
6. Termination. Licensee may terminate this Site Supplement at any time, and shall provide written notice to the Town of such termination. All fees paid prior to the date of termination shall be retained by the Town. Upon such termination, this Site Supplement shall be of no further force or effect.

IN WITNESS WHEREOF, the Parties have executed this Site Supplement as of the Effective Date.

TOWN OF SUPERIOR, COLORADO

Clint Folsom, Mayor

ATTEST:

Phyllis L. Hardin, Town Clerk

LICENSEE

Verizon Wireless (VAW) LLC d/b/a
VERIZON WIRELESS

By: _____
Name: _____
Its: _____

EXHIBIT A-1
Licensee Plans, Licensed Area, and Description of Licensee
Facilities/Equipment to be Installed

EXHIBIT B
Operational and Design Standards

1. Operational Standards.

a. *Federal Requirements.* All WCFs shall meet the current standards and regulations of the FAA, FCC and any other agency of the federal or state government with the authority to regulate telecommunication equipment. If such standards and regulations are changed, Licensee shall bring such WCFs into compliance with such revised standards and regulations within the time period mandated by the controlling federal or state agency.

b. *Radio Frequency Standards.* All Equipment shall comply with federal standards for radio frequency emissions. If concerns regarding compliance with radio frequency emissions standards for Equipment are made to the Town, Licensee shall provide information demonstrating compliance. If such information suggests, in the reasonable discretion of the Town, that the Equipment may not be in compliance, Licensee shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and which compares the results with established federal standards. If, upon review, the Town finds that the Equipment does not meet federal standards, the Town may take any remedial actions authorized by the Agreement. Any costs incurred by the Town, including consulting costs to verify compliance with these requirements, shall be paid by Licensee upon demand.

2. Design Standards.

a. *General.*

i. Equipment shall be as architecturally compatible with the surrounding area as feasible. Equipment shall be sited in a manner that takes into consideration its proximity to residential structures and residential district boundaries, uses on adjacent and nearby properties, and the compatibility of the facility to these uses, including without limitation the proximity of Wireless Site to first and second story windows.

ii. All electrical, communication, and other wiring, including radios, antennae and backhaul connections, shall be fully shrouded, concealed or internal to the structure where possible.

iii. Equipment shall be designed to be compatible with the site, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

iv. All Equipment, including antennas, vaults, equipment rooms, equipment enclosures, and tower structures, shall be constructed out of non-reflective materials.

b. *Height.* No Equipment shall exceed 40' in height.

c. *Camouflage/Concealment.* Equipment shall, to the extent possible, match the appearance and design of existing Town Facilities or third-party poles near the Wireless Site and,

when not technically practicable, the Equipment shall use camouflage design techniques including without limitation the use of materials, colors, textures, screening, landscaping, or other design options that will blend the Equipment to the surrounding natural setting and as-built environment. Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views, or community features).

d. *Collocation.* When practicable, Equipment shall be designed and constructed to permit the support structure to accommodate equipment from at least 2 wireless service providers on the same support structure, and Licensee shall not unfairly exclude a competitor from using the same facility or location. In addition, when practicable, Equipment shall be designed and constructed to permit the support structure to accommodate equipment for future technologies (*i.e.* to accommodate equipment for both 4G and 5G on the same support structure).

e. *Lighting.* Equipment shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the Equipment is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

f. *Landscaping and Fencing.* Ground-mounted Equipment shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel. Ground-mounted Equipment shall be landscaped with a buffer of plant materials that effectively screen the view of the Equipment from adjacent residential property, provided that, in locations where the visual impact of the Equipment would be minimal, the landscaping requirement may be reduced or waived by the Town. Equipment and any associated landscaping fencing shall be designed and located outside of intersection sight distances and in accordance with the Town's Roadway Design and Construction Criteria Manual.

g. *Accessory Equipment.* Accessory equipment for all Equipment shall meet the following requirements:

- i. Base stations shall be of a neutral, non-reflective color that is identical to, or closely compatible with, the color of the supporting structure.
- ii. Buildings, shelter, cabinets, and other accessory components shall be grouped as closely as technically possible.
- iii. The total footprint coverage area of the Accessory Equipment shall not exceed 36 square feet.
- iv. Accessory Equipment, including without limitation remote radio units, shall be located out of sight by locating behind landscaping, parapet walls, within the pole or, where technically feasible, underground. Where such alternate locations are not available, the accessory equipment shall be camouflaged or concealed.

v. Accessory Equipment shall not alter vehicular circulation or parking within the ROW or impede vehicular, bicycle, or pedestrian access or visibility along the ROW.

vi. No Equipment may be located or maintained in a manner that disrupts or interferes with the use of the ROW by the Town, the public, or any other person authorized to use the ROW, when there exists an alternative that would result in less disruption or interference, irrespective of the cost to Licensee associated with such alternative installation or attachment method.

vii. No Equipment shall create overhead hazards falling into vehicular or pedestrian traffic on driving or walking surfaces.

EXHIBIT C

Attachments to Traffic Signal Facilities

Any traffic signal poles considered for Equipment placement shall be subject to review and approval by the Town Manager or designee, who may approve, reject, or require modifications to any installation in deems it in the best interest of the Town.

Traffic signal poles are engineered structures designed to specific loading criteria and required AASHTO standards. Modifications to the loading or other structural conditions will require an engineering analysis signed and stamped by a Colorado licensed professional engineer. Any proposed loading or other structural change such as additional pole penetrations, weight of equipment, or wind loading shall also be reviewed and approved by the original pole manufacturer. Costs to prepare and review this information will be borne by Licensee.

Traffic signal poles already supporting Town equipment such as wireless links, cameras, or other externally mounted equipment are not eligible for Equipment placement. Equipment placed on traffic signal poles may be required to be removed or relocated at any time if the Town infrastructure is needed for placement of Town equipment.

Mounting of Equipment external to the pole shall be with stainless steel banding. In no case shall Equipment be bolted to the pole or use other mechanical fasteners. All Equipment shall be mounted to have minimum visual profile, and low profile mounting brackets and antennas may be required. No antennal shall extend higher than the current top of pole. All Equipment shall match the pole in color, currently Federal Green Davis color 14056.

Installations on signal poles shall be physically separated from Town wiring. A single 2' or smaller duct shall be installed inside each pole in use as a cableway. At the Town's discretion, the cables may exit the pole through existing conduit in the pole foundation or a new exit point may be required. In no case will wire or conduit penetration through handhole covers be permitted. External cabling attached to the traffic signal pole will not be permitted. Licensee cables, conduits, mounting hardware, or other equipment shall not interfere with installation, access to or operation of any Town-owned devices. Specific clearances may be required and will be reviewed on a case-by-case basis. Equipment shall be bonded to the Licensee's electric meter pedestal following National Electric Code standards. The traffic signal structure shall not be considered a suitable ground path.

Any ground mounted Equipment, including cabinets, but excluding utility meters, shall be placed a minimum of 30' from any existing traffic signal pole or traffic signal cabinet. Ground mounted Equipment shall be placed in an underground vault where feasible, or located in an area with minimal visual impact as determined by the Town. Above grade cabinets shall not be placed in intersection sight distance triangles.

Licensee shall provide analysis and physical test data to show that the proposed Equipment will not interfere with the Town's current wireless network or other Town-owned Equipment such as radar or microwave based detection Equipment.

For installations on signal poles, Licensee's crew foreman or onsite supervisor must hold at least a Level II IMSA Traffic Signal Field Technician certification, and be onsite for any work.

Any installation or servicing of Equipment located on traffic signal poles shall be coordinated with the Town a minimum of 3 business days in advance.

Equipment located on traffic signal poles may be required to be removed or reset at any time at the sole cost of the Licensee due to any work performed by or authorized by the Town. Equipment removal or resets shall be completed by Licensee within 72 hours of notice by the Town. If work is not completed within the 72-hour window, the Town may remove the Equipment and charge Licensee reasonable costs for labor and Equipment, without warranty of the Equipment. Under emergency conditions, the Town may remove any Equipment it deems necessary.